

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-214781

DATE: September 24, 1984

MATTER OF: John J. Jennings

- DIGEST: 1. Under regulations in effect at the time an IRS employee transferred to a new duty station in August 1981, lump-sum loan origination fees paid in connection with the purchase of his new residence are considered charges imposed as part of the cost of obtaining credit, and as such are not reimbursable.
2. IRS employee cannot be reimbursed for local house-hunting travel performed by private automobile over a several-month period incident to buying a residence in the vicinity of his new duty station. The regulations applicable at the time of his transfer allow one round trip from old to new duty station and back prior to the employee's reporting date at the new duty station. Local travel to be reimbursable must be in connection with that one house-hunting trip.
3. Postage for correspondence with realtors incident to transfer to a new duty station is allowable as a reimbursable miscellaneous expense. Also, postage expense for notifying subscription publishers, financial institutions, and the like, of change of address now may be allowed as a reimbursable miscellaneous expense since such costs are inherent in a change of residence. Gregory J. Cavanagh, B-183789, January 23, 1976, is overruled in this regard.
4. Postage expenses incurred to obtain general information about the environs of the new duty station to which an employee is being transferred may not be reimbursed as a miscellaneous expense. While such information may be desirable, the expense of obtaining it is not an inherent part of the move.

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The issues for our determination in this case are whether Mr. John J. Jennings, an Internal Revenue Service employee, can be reimbursed for: a loan origination fee incurred in purchasing a new residence, local house-hunting travel via a privately owned automobile, and postage stamps used for change of address notifications and correspondence with agencies to secure information.^{1/} We hold that, in accordance with the applicable regulations of May 1973 which excluded reimbursement of finance charges, the employee is not entitled to reimbursement of the lump-sum loan origination fee since it was considered a finance charge under 12 C.F.R. § 226.4(a). Also, the employee may not be reimbursed for local house-hunting travel. Postage costs for correspondence with realtors and for notifying subscription publishers, financial institutions, and the like, of change of address may be included in reimbursable miscellaneous expenses. However, postage expenses incurred to obtain general information about the environs of the new duty station may not be included in miscellaneous expenses.

BACKGROUND

Mr. Jennings was officially authorized a change in duty post from Augusta, Maine, to Louisville, Kentucky, in 1981. Mr. Jennings reported to duty at Louisville on August 16, 1981, and his family arrived there on December 1, 1981. A 6-day house-hunting trip was authorized in connection with his relocation but he made no claim for this expense. Instead, Mr. Jennings used his private automobile intermittently over a several-month period after reporting to his new duty station to look for permanent housing in the Louisville area. The agency disallowed Mr. Jennings' mileage allowance claim for this travel citing sections 531(1) and 532(5) of Internal Revenue Manual IRM 1763 (Travel Handbook). These sections allow an employee one round trip (from old duty station to new station and back) to seek new

^{1/} This matter was presented to us for advance decision by G. Fannin, Authorized Certifying Officer, U.S. Department of the Treasury, Internal Revenue Service.

residence quarters and then only when the trip is accomplished prior to the employee's reporting date at the new duty station. Reasonable expenses for local transportation at the new duty station in connection with this house-hunting trip are also allowed.

Mr. Jennings eventually purchased a residence on December 8, 1982, and was paid allowable closing costs. He subsequently submitted a voucher for a \$400 lump-sum loan origination fee which was returned unpaid. Although present Federal Travel Regulations (FTR) FPMR 101-7, Part 6, Section 2-6.2(d) (October 1, 1982), allow reimbursement of loan origination fees, the agency denied reimbursement arguing that Mr. Jennings' relocation entitlements and allowances should be determined by using regulations in effect on the employee's effective date of transfer, August 16, 1981, at which time the regulations did not provide for reimbursement of lump-sum loan origination fees.

Mr. Jennings' claim for \$22 in postage was denied because it combined charges for postage for correspondence with realtors as well as postage for correspondence with agencies to secure information and postage for change of address notifications. The agency, citing Gregory J. Cavanagh, B-183789, January 23, 1976, informed Mr. Jennings he could only be reimbursed for the portion of the voucher covering postage for correspondence with realtors.

The Loan Origination Fee

The disagreement between the Internal Revenue Service and Mr. Jennings concerning the loan origination fee stems from the interpretation of present provisions of FTR paragraph 2-6.1 (effective October 1, 1982), dealing with the conditions and requirements under which expenses incurred in connection with residence transactions are allowable. Paragraph 2-6.2(d)(1)(b) now includes loan origination fees as an allowable expense. Mr. Jennings cites an October 14, 1982 Internal Revenue Service memorandum from the Deputy Commissioner and a local Internal Revenue Service memorandum dated October 25, 1982, as authority for his interpretation that

the above regulations apply to him and allow his reimbursement. In the latter memorandum the Assistant Regional Commissioner described the time limitations controlling reimbursement of relocation expenses under the present FTR:

"I want to emphasize that these new regulations are effective for all transfers where the reporting date to the new post of duty is October 1, 1982 or later. However, transfers with earlier reporting dates may benefit from one of the new regulations in that an extension of an additional year to purchase or sell a residence may be allowed, provided that the entitlement period for the purchasing or selling of a residence has not expired before August 23, 1982."

The Deputy Commissioner's memorandum includes similar language.

The Certifying Officer, however, indicates that it is his view that only the new provision authorizing an extension of time to purchase a residence applies to Mr. Jennings and not the new provision authorizing reimbursement of loan origination fees. In this regard, FTR paragraph 2-6.1(e)(3) specifically provides the following guidance concerning the effective date of the new provision added by Supplement 4 which was effective October 1, 1982:

"(3) Applicability. In addition to being applicable to those employees transferred on or after the effective date of this supplement [October 1, 1982], the provisions for extension of the time limitation contained in (2), above [extension of time limitation], shall also be applicable to employees whose time limitation will not have expired prior to the issuance date (signature date) of this supplement 4 to these regulations; provided that when such an extension is approved by an

agency, relocation entitlements and allowances shall be determined by using the entitlements and allowances prescribed by regulations in effect on the employee's effective date of transfer and not the entitlements and allowances in effect at the time the extension of the time limitation is approved."

The "effective date of transfer" for purposes of relocation entitlement and allowances under the FTR is the date an employee reports to his new duty station. See FTR paragraph 2-1.4j and Stephen J. Musser, B-213164, February 22, 1984. The effective date of transfer for Mr. Jennings, therefore, was August 16, 1981, the date he reported to his new duty post in Louisville. As such Mr. Jennings has no entitlement to reimbursement for his loan origination fee under the present FTR. All of his allowable expenses must instead be provided for by regulations in force at the time he reported to Louisville. James C. Troese, B-211107, June 10, 1983; Harvey C. Varenhorst, B-208479, March 16, 1983.

In Musser an employee received a permanent change-of-station assignment from Houston, Texas, to Dallas, Texas, effective August 23, 1981. In November 1982 he purchased a permanent residence in Richardson, Texas. We found the applicable FTR paragraph 2-6.2(d) (May 1973), which was in effect at the time he reported to his new duty station, prohibited reimbursement for any item of real estate expense which was determined to constitute a finance charge under Regulation Z 12 C.F.R. § 226.4, which included a lump-sum loan origination fee. See also, Troese, B-211107, supra; and Varenhorst, B-208479, supra. Accordingly, Mr. Jennings is not entitled to be reimbursed for the loan origination fee.

Local Travel Seeking Residence Quarters

Mr. Jennings states that upon arrival at his new duty station he "did not charge the government for a [prior] six day house-hunting trip" but instead he incurred expense searching for a permanent residence in

the vicinity of his duty station. His search was done on his "own time" over an 18-month period. The \$36 claimed represents "10 to 15% of [the] total miles traveled." Mr. Jennings claims he saved the Government money using this procedure. He indicates that the Internal Revenue Service's interpretation of the regulations so as to preclude reimbursement to him is unduly restrictive.

The statutory authority for reimbursement of travel incident to a civilian employee's seeking permanent residence quarters is found at 5 U.S.C. § 5724a(a)(2), which, under such regulations as the President may prescribe, allows payment of the expenses only for "one round trip in connection with each change of station of the employee." The implementing regulations applicable to Mr. Jennings' travel are found in FTR Part 4 (May 1973). Paragraph 2-4.1 expressly conditions reimbursement upon such house-hunting travel being completed prior to reporting to the new official station. Sheryl Templeman, B-212261, February 6, 1984. While paragraph 2-4.2 (Supp. 4, April 1977) allows expenses for local transportation in the locality of the new official station such transportation is in connection with the one house-hunting round trip described in paragraph 2-4.1. Cecil D. Lewis, B-203196, February 3, 1982.

Therefore, Mr. Jennings is not entitled to reimbursement for the local house-hunting travel he claims.

Postage Costs Incident to Relocation

Pursuant to the Internal Revenue Service's request for itemization Mr. Jennings has submitted a listing of the postage expenses for which he claims reimbursement:

Postage with realtors	\$ 9.00
Postage with agencies to secure information re: Louisville, environs, schools, etc.	3.00
Postage incident to providing change of address notification to financial institutions, subscriptions, etc.	10.00
	<u>\$22.00</u>

The Internal Revenue Service advised Mr. Jennings that only the expense of the postage for correspondence with realtors may be allowed.

Mr. Jennings argues that postage for change of address notifications as well as for securing information relating to schools, local government, etc., are an "integral part" of every relocation and as such should be reimbursed. Applicable regulations, FTR paragraph 2-3.1(a) (May 1973), state that miscellaneous costs will be allowed for expenses "common to living quarters, furnishings, household appliances, and to other general types of costs inherent in relocation of a place of residence." This allowance does not cover "costs or expenses incurred for reasons of personal taste or preference and not required because of the move * * * expenses brought about by circumstances, factors or actions in which the move to a new duty station was not the proximate cause." Under FTR paragraph 2-3.3(a)(2) (May 1973) the allowable amount of miscellaneous expense is equal to the lesser of \$200 or the equivalent of 2 weeks basic pay for an employee with immediate family. An allowance in excess of this \$200 amount must be documented and cannot exceed the 2-week pay cap.

As the Internal Revenue Service recognizes, we have allowed postage for correspondence with realtors as reimbursable miscellaneous expenses. Erwin E. Drossel, B-203009, May 17, 1982. We have also allowed postage expenses incurred to return an employee's license plates, as required by law, to his previous state of residence. Bruce L. Burchman, B-194851, April 8, 1980. However, we have disallowed claims for postage used to notify magazine publishers and creditors because that expense did not come within the "purview" of the applicable regulations and thus was not allowable. Gregory J. Cavanagh, B-183789, January 23, 1976. We have always considered the nature of the item claimed to determine whether it was contemplated as reimbursable under the regulations. Cyrus E. Phillips IV, B-205695, August 2, 1982.

We have reexamined our position concerning postage expenses incurred to provide change-of-address notices

B-214781

for magazine subscriptions, financial institutions, and the like. We now find that although such expenses are not specifically provided for in the regulations, they are expenses normally required in connection with and inherent in a change of residence. Accordingly, we will no longer follow the rule stated in the Cavanagh case concerning these expenses, and therefore, Mr. Jennings' \$10 claim for those expenses may be allowed if the agency determines it to be otherwise proper.

Mr. Jennings' claim for postage expenses incurred to obtain general information about Louisville and environs may not be allowed since, although that information may have been desirable, it was not an inherent part of the move.

for Milton J. Forster
Comptroller General
of the United States